

MINUTES JULY 23, 1987
ADDICTION COMMITTEE MEETING

The July 23, 1987 Addiction Committee meeting was held at the offices of Jones, Day, Reavis & Pogue in Washington, D.C. In attendance were Marianne Corr (Jones, Day - Washington, D.C.), Charlie Trippe (Jones, Day - New York), Anne O'Brien (Shook, Hardy & Bacon), Cris Windham and Bryant Galbaugh (Womble, Carlyle), Jean McCarthy (Webster & Sheffield) and John DelliVenneri (Chadbourne & Parke). Marc Firestone joined the meeting via conference call.

Anne O'Brien reported that the Cipollone trial date has been moved back to October 19. There will be no further discovery in Cipollone other than the taking of depositions already noticed. Anne reported that the deposition of Dr. Dunn, a former researcher in the behavioral research section of Philip Morris is to be taken sometime before trial. Dr. Dunn engaged in addiction research while at Philip Morris. Anne reported that preparation for the addiction part of the Cipollone trial is going well, but there is a lot yet to be done. Marc Firestone reported that he has contacted three potential witnesses to testify at the motion in limine hearing to exclude Dr. Jaffe's testimony: Dr. Robert Cancro (psychiatrist at Bellevue), Dr. Halpern (Professor of Psychiatry at New York Medical College) and Dr. Charles Ford.

John DelliVenneri reported that the defendants named experts in Horton on July 27. American named Dr. Stuart Nemir (psychiatrist) and Dr. Timothy Summers. Dr. Summers is a black psychiatrist from Jackson, Mississippi. He has never testified, but is knowledgeable on the issues. Summers is the primary addiction witness in Horton and Nemir is the back-up. John reported that there are motions for continuance of the trial and expert depositions pending. John further stated that risk/utility is an issue in the case although there is no law on risk/utility in Mississippi. Advertising is still an issue on the case also. John further reported that there will be no filming of the Horton trial by 60 Minutes. The judge in Horton had originally granted 60 Minutes' request to film the trial, but because it was going to be too disrupted, he reversed himself. John further reported that a motion in limine to exclude addiction expert testimony in Horton is being drafted and he will distribute a draft as soon as it is complete. John distributed copies of Cuevas v. Royal D'Iberville Hotel, 498 So.2d 346 (S. Ct. Miss. 1986). John noted that in Justice Robertson's dissent there is strong, favorable language on the principle of personal choice. (p. 361)

John DelliVenneri reported that the plaintiffs' have designated Robert Spitzer as their addiction expert in the Kotler case in Massachusetts. American, Philip Morris and Liggett are involved in the Kotler case. John reported that American is

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thinking of naming Robert Kearns as their addiction expert in that case.

Anne O'Brien reported that plaintiff has listed some experts in the Gianitsis case in New Hampshire. American, Lorillard, Philip Morris, J.R. Reynolds and The Tobacco Institute are involved in Gianitsis. Plaintiff has listed as addiction experts Drs. Neal Benowitz, David Burns, K.H. Ginzel and Lester Grinspoon. Cris Windham reported that he has evidence that Dr. Benowitz is misusing NIDA money and felt this would make good cross-information. According to Cris, Dr. Benowitz took money for a research assistant and instead, bought laboratory equipment.

Marc Firestone reported that since the last meeting he has been to see Dr. Rubin Bressler, a psychiatrist at the University of Arizona and Dr. John Sullivan, also psychiatrist at the University of Arizona. Both are reading literature at present. Charlie Trippe reported that he visited John Rosecrans, Professor of Pharmacology at the Medical College of Virginia. Charlie was aware that Dr. Rosecrans was rejected by this Committee quite a while ago, but thought it might be interesting to talk with him. Charlie reported that Dr. Rosecrans is writing a chapter for the Surgeon Generals' Report on addiction, but he was not sure of a title. Several members of the group reported that they had also spoken with Rosecrans sometime previously and reported that his views were negative. Charlie stated that Dr. Rosecrans will undoubtedly not be used as a witness, but planned on keeping in touch with him to see what he could learn about the Surgeon Generals' Report. Cris Windham reported that he has seen Dr. Barney Primmm, a psychiatrist in Washington, D.C. Dr. Primmm is a friend of Dr. Jaffe, but does not hold the same views as Jaffe on addiction. Cris reported that Dr. Primmm was probably a low yield. Cris also reported on a visit with Dr. Alan Marlett (Seattle, WA.). Dr. Marlett has positive views on the issues and can provide good witness leads.

Marc Firestone related that he is seriously considering speaking with John Hughes. Hughes has published extensively on the area of tobacco withdrawal. Marc related that he would like to ask Hughes for an affidavit on smoking withdrawal in preparation for the Cipollone motion in limine hearing. Marc plans to visit Dr. Hughes in the near future.

Marianne Corr reported that the Forster case in Minnesota has been dismissed. Jones, Day has been preparing Dr. Donald Lunde as their addiction witness. Marianne reported that Dr. Lunde was making excellent progress and could probably be ready to be named in a case with very little work. The contact for Dr. Lunde is Charlie Trippe (Jones, Day -- New York).

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The next issue on the agenda was the distribution of literature to expert witnesses by attorneys. Cris Windham expressed some concern that the bills coming in from these expert witnesses may be rising too dramatically and, if attorneys continue to provide witnesses with such vast amounts of literature, this may hurt the witnesses' credibility at a later time.

Anne O'Brien noted that there has been a problem with contacting witnesses without prior clearance from the national counsel contact person. Anne reminded the group that there are many important reasons for going through the national contact person and all present reaffirmed their belief that the contact system was the best way to proceed.

Cris Windham reported that the Newell in Seattle is on a fast track and that we will need to name addiction witnesses in the near future. [Since the meeting, R.J. Reynolds has named Dr. Stephen Raffle as their addiction witness.]

The next item on the agenda concerned the merger of the Jones, Day, Shook, Hardy and Arnold and Porter databases. Marianne Corr reported that Jones, Day has finished computerizing all quotations, but she was not sure where it stood at this point in time. Marianne will report to the group at the next meeting on this issue.

Due to the increasing amount of time spent in preparing for the Cipollone trial, no new date was set for the next addiction meeting. The group agreed that the next meeting should be scheduled on an as-needed basis.

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